

**FILED**

JUN 18 2008

**Board of Vocational Nursing  
and Psychiatric Technicians**

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9  
10 **BEFORE THE**  
11 **BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS**  
12 **DEPARTMENT OF CONSUMER AFFAIRS**  
13 **STATE OF CALIFORNIA**

14 In the Matter of the Accusation Against:

Case No. VN-2006-1892

15 **DESHAWN FOREMAN**  
16 1974 Pomona Avenue  
Costa Mesa, California 92627

**A C C U S A T I O N**

17 Vocational Nurse License No. VN 180262

18 Respondent.

19  
20 Teresa Bello-Jones, J.D., M.S.N., R.N. ("Complainant") alleges:

21 **PARTIES**

22 1. Complainant brings this Accusation solely in her official capacity as the  
23 Executive Officer of the Board of Vocational Nursing and Psychiatric Technicians ("Board"),  
24 Department of Consumer Affairs.

25 **Vocational Nurse License**

26 2. On or about April 2, 1997, the Board issued Vocational Nurse License  
27 Number VN 180262 ("license") to DeShawn Foreman ("Respondent"). The license expired on  
28 March 31, 2007, and has not been renewed.

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1           7.       Section 490 of the Code states:

2           A board may suspend or revoke a license on the ground that the  
3           licensee has been convicted of a crime, if the crime is substantially  
4           related to the qualifications, functions, or duties of the business or  
5           profession for which the license was issued. A conviction within the  
6           meaning of this section means a plea or verdict of guilty or a conviction  
7           following a plea of nolo contendere. Any action which a board is  
8           permitted to take following the establishment of a conviction may be  
9           taken when the time for appeal has elapsed, or the judgment of  
10          conviction has been affirmed on appeal, or when an order granting  
11          probation is made suspending the imposition of sentence, irrespective of  
12          a subsequent order under the provisions of Section 1203.4 of the Penal  
13          Code.

14           8.       Section 492 of the Code states:

15          Notwithstanding any other provision of law, successful  
16          completion of any diversion program under the Penal Code, or successful  
17          completion of an alcohol and drug problem assessment program under  
18          Article 5 (commencing with section 23249.50) of Chapter 12 of Division  
19          11 of the Vehicle Code, shall not prohibit any agency established under  
20          Division 2 ([Healing Arts] commencing with Section 500) of this code,  
21          or any initiative act referred to in that division, from taking disciplinary  
22          action against a licensee or from denying a license for professional  
23          misconduct, notwithstanding that evidence of that misconduct may be  
24          recorded in a record pertaining to an arrest.

25          This section shall not be construed to apply to any drug diversion  
26          program operated by any agency established under Division 2  
27          (commencing with Section 500) of this code, or any initiative act referred  
28          to in that division.

          9.       Section 493 of the Code states:

          Notwithstanding any other provision of law, in a proceeding  
conducted by a board within the department pursuant to law to deny an  
application for a license or to suspend or revoke a license or otherwise  
take disciplinary action against a person who holds a license, upon the  
ground that the applicant or the licensee has been convicted of a crime  
substantially related to the qualifications, functions, and duties of the  
licensee in question, the record of conviction of the crime shall be  
conclusive evidence of the fact that the conviction occurred, but only of  
that fact, and the board may inquire into the circumstances surrounding the  
commission of the crime in order to fix the degree of discipline or to  
determine if the conviction is substantially related to the qualifications,  
functions, and duties of the licensee in question.

          As used in this section, 'license' includes 'certificate,' 'permit,'  
'authority,' and 'registration.'

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## REGULATIONS

10. California Code of Regulations, title 16, section 2521 states:

For the purposes of denial, suspension, or revocation of a license pursuant to Division 1.5 (commencing with Section 475) of the Business and professions Code, a crime or act shall be or act shall be considered to be substantially related to the qualifications, functions or duties of a licensed vocational nurse if to a substantial degree it evidences the present or potential unfitness of a licensed vocational nurse to practice in a manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:

....  
(f) Any crime or act involving the sale, gift, administration or furnishing of 'narcotics, or dangerous drugs or dangerous devices' as defined in Section 4022 of the Business and Professions Codes.

11. California Code of Regulations, title 16, section 2522.5 states:

(a) When considering the suspension or revocation of a license on the grounds that a licensed vocational nurse has been convicted of a crime, the Board, in evaluating the rehabilitation of such person and her eligibility for a license will consider the following criteria:

(1) Nature and severity of the act(s) or offense(s).

(2) Total criminal record.

(3) The time that has elapsed since commission of the act(s) or offense(s).

(4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.

(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.

(6) Evidence, if any, of rehabilitation submitted by the licensee.

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## COST RECOVERY

12. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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1 **DRUG**

2 13. "Marijuana" is a Schedule I controlled substance as designated by Health  
3 and Safety Code section 11054, subdivision (d)(13).

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5 **FIRST CAUSE FOR DISCIPLINE**

6 **(11/14/05 Conviction of Substantially Related Crime for Importing Marijuana on 2/3/05)**

7 14. Respondent's license is subject to discipline on the grounds of  
8 unprofessional conduct, as defined by Code section 2878, subdivision (f), in that on  
9 November 14, 2005, in the United States District Court, Southern District of California, in the  
10 case entitled *United States of America vs. DeShawn Foreman*, Case No. 2005CR0311-R,  
11 Respondent was convicted on her plea of guilty of violating United States Code, volume 21,  
12 sections 952 and 960 (importation of marijuana), a felony. Said crime is substantially related to  
13 the qualifications, duties and functions of a licensed vocational nurse.

14 a. Respondent was sentenced to one (1) year imprisonment followed by three  
15 (3) years parole. Respondent's parole is schedule to end on or about March 19, 2009.

16 b. The circumstances of the crime are that on February 3, 2005, Respondent  
17 drove her car across the United States border and into the United States with approximately  
18 94 pounds of marijuana, a controlled substance, inside her vehicle.

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20 **SECOND CAUSE FOR DISCIPLINE**

21 **(Conviction of a Crime Involving a Controlled Substance)**

22 15. Respondent's license is subject to discipline on the grounds of  
23 unprofessional conduct, as defined by Code section 2878.5, subdivision (c), in that while  
24 licensed as a vocational nurse, Respondent was convicted of a crime involving a controlled  
25 substance, marijuana, as more particularly set forth in paragraph 9, above, which is incorporated  
26 herein by reference.

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1 **THIRD FOR DISCIPLINE**

2 **(Possession of a Controlled Substance in Violation of Law)**

3 16. Respondent's license is subject to discipline on the grounds of  
4 unprofessional conduct, as defined by Code section 2878.5, subdivision (a), in that while  
5 licensed as a vocational nurse, Respondent possessed marijuana, a controlled substance, in  
6 violation of Code section 4060, as more particularly set forth in paragraph 9, above, which is  
7 incorporated herein by reference.

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9 **FACTOR IN AGGRAVATION**

10 17. On or about November 2, 2006, the Board of Vocational Nursing and  
11 Psychiatric Technicians issued Citation No. 06-0142-L to Respondent DeShawn Foreman for  
12 violation of Code section 2878, subdivision (f) (conviction of a crime substantially related to the  
13 qualifications, functions, and duties of a licensed vocational nurse) due to her conviction on  
14 April 24, 2004, for violating Penal Code section 647, subdivision (f) (public intoxication) and  
15 Vehicle Code section 10852 (breaking or removing vehicle parts on the vehicle of another). The  
16 Board assessed a fine in the amount of \$750.00 and Respondent paid the Citation fine amount.

17 a. The facts and circumstances underlying said conviction are that on or  
18 about November 18, 2003, Respondent was at a bar, intoxicated, and involved in a bar fight.  
19 Police officers arrived at the bar, handcuffed Respondent, and placed her into the back seat of  
20 their police car. Respondent used her feet to kick and break out the rear window of the police  
21 car. Respondent was sentenced to three (3) years summary probation plus fines.

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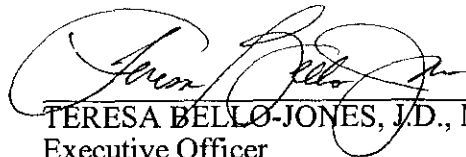
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1 **PRAYER**

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
3 alleged, and that following the hearing, the Board of Vocational Nursing and Psychiatric  
4 Technicians issue a decision:

- 5 1. Revoking or suspending Vocational Nurse License Number VN 180262,  
6 issued to DeShawn Foreman;  
7 2. Ordering DeShawn Foreman to pay the Board of Vocational Nursing and  
8 Psychiatric Technicians the reasonable costs of the investigation and enforcement of this case,  
9 pursuant to Code section 125.3; and,  
10 3. Taking such other and further action as deemed necessary and proper.

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12 DATED: June 18, 2008.

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15 TERESA BELLO-JONES, J.D., M.S.N., R.N.  
16 Executive Officer  
17 Board of Vocational Nursing and Psychiatric Technicians  
18 Complainant  
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